

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

DAVID A. GEORGE and  
TINA N. GEORGE,

Plaintiffs,

v.

Civil Action No. 2:08-0141

KANAWHA COUNTY SHERIFF'S DEPARTMENT and  
SHERIFF MIKE RUTHERFORD and  
OFFICER J. M. VERNON and  
KANAWHA COUNTY HUMANE SOCIETY and  
OFFICER DICK COLL, and  
SOUTH CENTRAL REGIONAL JAIL,

Defendants

MEMORANDUM OPINION AND ORDER

Pending is a motion to dismiss filed April 7, 2008, by the South Central Regional Jail ("SCRJ"). This action was previously referred to Mary E. Stanley, United States Magistrate Judge, who has submitted her Proposed Findings and Recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B).

The court has reviewed the Proposed Findings and Recommendation entered by the magistrate judge on December 9, 2008. The magistrate judge recommends that the motion to dismiss be granted inasmuch as the SCRJ is not a "person" subject to suit under 42 U.S.C. § 1983 and is immune from damages under the Eleventh Amendment.

Plaintiffs have not objected. Further, it appears that during a January 9, 2008, status conference conducted by the magistrate judge that plaintiffs professed their understanding that the SCRJ is not a suable entity.

Accordingly, following a de novo review, the court concludes that the recommended disposition is correct and ORDERS as follows:

1. That the magistrate judge's Proposed Findings and Recommendation be, and it hereby is, incorporated herein in its entirety;
2. That the SCRJ be, and it hereby is, dismissed with prejudice from this action; and
3. That this matter is referred anew to the magistrate judge for further proceedings in accordance with the March 11, 2008, standing order.

The Clerk is directed to forward copies of this written opinion and order to counsel of record, the pro se plaintiffs, and the United States Magistrate Judge.

DATED: February 3, 2009

  
John T. Copenhaver, Jr.  
United States District Judge